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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,562	03/17/2004	Jeffrey L. Coleman	95998	3496
33697      7590      12/05/2008 OFFICE OF PATENT COUNSEL SPAWARSYCEN, PACIFIC CODE 36000 53510 SILVERGATE AVE. ROOM 103 SAN DIEGO, CA 92152-5765				
EXAMINER				
FANTU, YALKEW				
ART UNIT		PAPER NUMBER		
2838				
MAIL DATE		DELIVERY MODE		
12/05/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* JEFFREY L. COLEMAN

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Application No. 10/802,562  
Technology Center 2800

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Mailed: December 5, 2008

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Before Sherrie Saunders-Cobb, *Paralegal Specialist*  
Saunders-Cobb, *Paralegal Specialist*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on September 11, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter requiring attention prior to docketing.

**EXAMINER'S ANSWER, GROUNDS OF REJECTION**

A review of the file finds that the grounds of rejection of the claims as provided in the Examiner's Answer mailed November 29, 2007 under the heading "Grounds of rejection" is not consistent with the grounds of rejection of claims set forth in the last Office action of record. The grounds of rejection of the claims as provided in the Examiner's Answer must be consistent with the last Office action of record, including any Advisory action responsive to any after final submissions. Each Grounds of rejection to be reviewed on appeal must be identified and any new grounds of rejection must be provided under a separate heading "New Grounds of Rejection" in the Examiner's Answer and must include the approval of the TC Director or his/her designee. *See also Manual of Patent Examining Procedure* (MPEP) § 1207.02 and 1207.03 (8<sup>th</sup> ed. Rev. 6, Sept 2007) for details.

A review of the Examiner's Answer finds a new Ground(s) of Rejection that has not been provided the required heading "New Grounds of Rejection" and/or which does not include the approval of the TC Director or his/her designee.

Specifically, the Examiner's Answer sets forth a rejection of claim(s) 21 as being rejected under **35 U.S.C. § 103(a)** and being unpatentable over Modgil in view of Kopera.; whereas the last Office action, including any mailed Advisory Action(s) finds that claim(s) 21 as being rejected under **35 U.S.C. § 102(b)** as being anticipated by Modgil. Correction of all Grounds of rejection for all claims is required.

**CONCLUSION**

Accordingly, it is **ORDERED** that the application is returned to the Examiner:

- 1) to vacate the Examiner's Answer mailed November 29, 2007;
- 2) to generate a new Examiner's Answer setting forth the correct Grounds of rejection and to correct other sections of the Answer as may be required;
- 3) and to include the approval of the TC Director or his/her designee (as required for any new grounds of rejection); and
- 4) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

Ssc:

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